

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 7616

BILL NUMBER: SB 553

NOTE PREPARED: Jan 12, 2005

BILL AMENDED:

SUBJECT: Death Penalty Appeals.

FIRST AUTHOR: Sen. Waterman

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X **GENERAL
DEDICATED
FEDERAL**

IMPACT: State

Summary of Legislation: This bill prohibits a person who has been sentenced to death and who has completed state postconviction review proceedings from presenting newly discovered evidence concerning the person's mental illness, mental state, or mental condition.

Effective Date: July 1, 2005.

Explanation of State Expenditures: Depending on issues raised by the offenders who are on death row, this bill could reduce the amount of time that the offender remains in the stage between postconviction review and habeas corpus review in federal court.

Background Information: The following table describes the stages of review in state and federal court when an offender who is convicted of murder is sentenced to death.

Review Level	Court of Review	Issues Permitted To Be Raised
Direct Appeal	State Supreme Court	Defendant required to show that what happened at trial was legally erroneous. Defendant may not present new evidence.
Post Conviction Relief (PCR)	Trial Court	Newly discovered evidence such as DNA and other issues may be presented.
Subsequent Appeal of PCR	State Supreme Court	Decides on the evidence presented at the PCR review.
Federal Habeas Corpus Review	Seventh Circuit Court of Appeals	Federal courts may not grant relief if the claim was waived in the state court or if the issue was not presented or properly presented in state court.

The Indiana Supreme Court reports that 39 offenders are currently on Death Row in Indiana at various stages of federal and state review. This bill would affect the offenders who are in the postconviction relief and direct appeal stages.

Review Stage	Number of Offenders
Federal Appeal	26
Post Conviction Relief	6
Direct Appeal	<u>7</u>
Total Offenders on Death Row	<u><u>39</u></u>

The average expenditure to house an adult offender was \$21,514 in FY 2004.

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Department of Correction, Indiana Supreme Court.

Local Agencies Affected:

Information Sources: Department of Correction, Indiana Supreme Court.

Fiscal Analyst: Mark Goodpaster, 317-232-9852.